IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 15TH NOVEMBER 2007 / 24TH KARTHIKA 1929

WP(C).No. 22099 of 2003(E)

PETITIONER:

M/S. TIME COMBINES,
POOVANTHURUTHU, KOTTAYAM, REPRESENTED BY
MANAGING PARTNER, K.VENUGOPAL.

BY ADV. SRI.C.K.THANU PILLAI
ADV. SHRI. S.S.HUSSAIN

RESPONDENTS:

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1. THE STATE LEVEL COMMITTEE FOR SALES TAX
EXEMPTION, REPRESENTED BY THE CONVENOR,
DIRECTOR OF INDUSTRIES AND COMMERCE, VIKAS BHAVAN,
THIRUVANANTHAPURAM.

2. THE GENERAL MANAGER,
DISTRICT INDUSTRIES CENTRE, KOTTAYAM.

3. THE SALES TAX OFFICER (RESERVE),
SALES TAX OFFICE, SECOND CIRCLE, KOTTAYAM.

BY ADV. SHRI.PRADEEP, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF APPLICATION DATED 11/07/1988 FILED BEFORE THE 2ND RESPONDENT.

P2 : COPY OF APPLICATION DATED 31/12/1990 FILED BEFORE THE 2ND RESPONDENT.

P3 : COPY OF PROCEEDINGS NO. C2-8361/89/D.DIS. DATED 21/03/1990 ISSUED BY THE 2ND RESPONDENT.

P4 : COPY OF THE PROCEEDINGS NO. C2-151/91/D.DIS. DATED 04/12/1991 ISSUED BY THE 2ND RESPONDENT.

P5 : COPY OF PROCEEDINGS NO. C2-4560/93/D.DIS. DATED 03/05/1994 ISSUED by the 2ND RESPONDENT.

P6 : COPY OF CIRCULAR NO. 20738/B3/90/TD DATED 25/10/1990 ISSUED by the GOVERNMENT.

P7 : COPY OF STATEMENT SHOWING INVESTMENT AND EXEMPTION GRANTED TO THE PETITIONER.

P8 : COPY OF ORDER NO. 21121590/84-85 DATED 01/02/1991 ISSUED BY THE 3RD RESPONDENT.

P9 : COPY OF ORDER NO. 21121590/85-86 DATED 22/09/1998 ISSUED by the 3RD RESPONDENT.

P10 : COPY OF ORDER NO. 21121590/86-87 DATED 22/09/1998 ISSUED BY THE 3RD RESPONDENT.

P11 : COPY OF ORDER NO. 21121590/87-88 ISSUED BY THE 3RD RESPONDENT DATED 20/05/2001.

P12 : COPY OF ORDER NO. 21121590/88-89 DATED 28/11/1996 ISSUED BY THE 3RD RESPONDENT.

P13 : COPY OF APPEAL DATED 15/11/2001 FILED BEFORE THE 1ST RESPONDENT.

P14 : COPY OF PROCEEDIGNS NO.FC3.2877/02 K.DIS. DATED 03/08/2003 ISSUED BY THE 1ST RESPONDENT.

// TRUE COPY //

PA TO JUDGE.

jg

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 22099 of 2003

Dated, this the 15th day of November, 2007

J U D G M E N T

Petitioner is challenging Ext.P14 order whereunder the State Level Committee has confirmed the order of the District Level Committee declining sales tax exemption under the sick industry unit revival scheme. Petitioner started commercial production of wall clock assembling unit on 18/02/1985 and applied for sales tax exemption for a period of 5 years as per notification SRO No.968/80. The exemption was granted for a period from 18/02/85 to 17/02/90. The unit was registered as a sick industry. However, benefit under the sick industrial unit revival scheme was not granted to the petitioner. Thereafter petitioner did not undertake any revival programme. However, petitioner's claim that an application for the benefit under revival scheme was submitted on 16/08/2001. The authorities, however, noticed that even while considering the matter, petitioner has not really undertaken any revival scheme. On going through Ext.P14, I find petitioner's effort is to get the sales tax exemption for previous periods commencing from 1989-90 under revival scheme, which is not permissible under the relevant notification No. SRO 229/87, which provides for sales

tax exemption only for the production and sale of goods, after revival of the unit under rehabilitation scheme.

2. Even though learned counsel for petitioner contended that the original exemption granted itself is incorrect, I do not think there is any justification for this Court to reopen the issue because after getting sales tax exemption for the first five years and after enjoying the same, petitioner filed O.P. No.890/94 before this Court and the same was dismissed as withdrawn. Petitioner restarted their claim for sales tax exemption only for the year 2001, after expiry of 10 years from the period of exemption originally availed by them, which was rightly considered under the revival scheme and declined because industry was never revived.

3. Moreover, the claim made in this Court is to grant exemption, for the capital investment made during the period of five years of exemption, from the date of starting of the unit and not from the date of such investment as per notification SRO No.968/80. The details stated in the counter affidavit clearly shows that exemption, on each and every item of investment, was granted with effect from the date of investment. In any case, there is no scope for reopening the issue and order enquiry as to the date

on which the capital investment that took place in the 1980s, more than 20 years back. I do not find any ground to interfere with Ext.P14. Therefore, this writ petition is devoid of any merit and is dismissed.

(C.N.RAMACHANDRAN NAIR, JUDGE.)

jg